

Notice of Allowability

Application No.

10/070,464

Examiner

Sheridan L. Swope

Applicant(s)

ABBOTT ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amdt filed 03 Sep 2003.
2. ☒ The allowed claim(s) is/are 1,4-9 and 24.
3. ☒ The drawings filed on 18 July 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____. | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input checked="" type="checkbox"/> Other signed ISR. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

On page 1, insert the following as the first paragraph:

The application is a US 371 National Stage filing of PCT/AU00/01085 filed September 11, 2000 and claims the benefit of priority to Australian applications PQ 5709 filed February 18, 2000 and PQ 2762 filed September 10, 1999.

Cancel Claims 10-23 and 25-27.

Replace Claim 1 with:

1. An isolated peptide which comprises:
 - (a) the sequence shown in SEQ ID NO: 1; or
 - (b) a sequence which has at least 95% identity with the sequence shown in SEQ ID NO: 1, and which has dipeptidyl peptidase activity, with the same substrate specificity, as SEQ ID NO: 1.

Replace Claim 4 with:

4. A fragment of the sequence shown in SEQ ID NO: 1 which has dipeptidyl peptidase activity, with the same substrate specificity, as SEQ ID NO: 1.

Replace Claim 5 with:

5. A fragment, according to claim 4, which consists of the sequence shown in SEQ ID NOs: 3 or 5.

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Replace Claim 8 with:

8. A fusion protein comprising the amino acid sequence shown in SEQ ID NO: 1 linked with a further amino acid sequence, the fusion protein having dipeptidyl peptidase activity, with the same substrate specificity, as SEQ ID NO: 1.

Authorization for this examiner's amendment was given in a telephone interview with Talivaldis Cepuritis on November 4, 2003.

Allowable Subject Matter

Claims 1, 4-9, and 24 are allowed.

The following is an examiner's statement of reasons for allowance:

All elected Claims, 1, 4-9, and 24, are limited to isolated polypeptides derived from SEQ ID NO: 1. The utility of the polypeptide of SEQ ID NO: 1, as being a serine protease that has dipeptidyl peptidase activity, is credible based on homology to known proteins (Qi et al, 2002) as well as expression in heterologous host cells and analysis by an enzymatic assay (pg 29, line 23- pg 30, line 24; Fig 7; Tables 1 and 2).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan L. Swope whose telephone number is 703-305-1696. The examiner can normally be reached on M-F; 8:30-5 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy can be reached on 703-308-3804. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Sheridan Lee Swope, Ph.D.

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EXAMINER
R. Lee Swope